



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 8
999 18TH STREET - SUITE 300
DENVER, CO 80202-2466
Phone 800-227-8917
<http://www.epa.gov/region08>

November 18, 2004

Ref: 8ENF-W

CERTIFIED MAIL 7003-2260-0001-7778-5977
RETURN RECEIPT REQUESTED

Duane Sweat, Registered Agent
Center Creek Water System
2636 Old Settlers
Heber, UT 84032

Re: Administrative Order
Docket No. **SDWA-08-2005-0002**
PWS ID #UT4900477(UTAH26002)

Dear Mr. Sweat:

Enclosed you will find an Administrative Order (Order), which the Environmental Protection Agency (EPA) has issued under the authority of the Safe Drinking Water Act (SDWA), 42 U.S.C. Section 300f et seq., and its implementing regulations. Among other things, the Administrative Order finds that Center Creek Water System (System) is a public water system as defined by the SDWA and that the owner/operator of the system has violated the National Primary Drinking Water Regulations (NPDWRs) at 40 C.F.R. §§ 141.21(b), 141.21(b)(5), 141.21(a), 141.23(d), 141.24(f), 141.26(b)(3), 141.23(c)(1), 141.24(h), 141.201, 141.21(g)(2), 141.31(b) for: failure to collect a set of repeat samples following a total coliform fecal positive routine sample; failure to collect at least five routine samples following a total coliform positive sample; failure to monitor for total coliform bacteria; failure to monitor for nitrate; failure to monitor for volatile organic chemicals; failure to monitor for radionuclides; failure to monitor for inorganic chemicals; failure to monitor for pesticides; failure to provide public notice of the violations; failure to report total coliform monitoring violations to State within 10 days of discovering the violation; and failure to report NPDWR violations to the State.



Printed on Recycled Paper

If the System owner complies with the enclosed Order for a period of at least twelve months, EPA may choose to close the Order. Violating the enclosed Order may lead to (1) a penalty of up to \$32,500 per day of violation of the Order, (2) a separate

such penalty for violating the regulations themselves, and/or (3) a court injunction ordering you to comply.

Also enclosed is a Small Business Regulatory Enforcement and Fairness Act (SBREFA) Section 22 information sheet. The SBREFA sheet notifies small businesses of their right to comment on regulatory enforcement activities, and provides information on compliance assistance. Dissemination of this information sheet does not constitute an admission or determination by EPA that the business, organization or governmental jurisdiction is a small entity as defined by SBREFA.

Please note that the effective date of the enclosed Order is the date of issuance. Within the next 10 days, please provide EPA with any new information that you believe the Agency is not aware of relating to the alleged violations in the Order. The information may be sent to Melanie Wasco at the address on the letterhead, include the mailcode 8ENF-W, or you may call Ms. Wasco at (800) 227-8917, extension 6540, or (303) 312-6540. If you wish to have an informal conference with EPA, you may also call or write Ms. Wasco. If you are represented by an attorney or have legal questions, please call Michelle Jalazo at the above 800 number, extension 6921, or at (303) 312-6921.

We urge your prompt attention to this matter.

Sincerely,

Melanie L. Pallman for/

Diane L. Sipe, Director
Technical Enforcement Program
Office of Enforcement, Compliance
and Environmental Justice

Enclosures
Order
Public Notice template
SBREFA

cc: Ken Bousfield, UT DEQ DW

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8

IN THE MATTER OF)	
)	
Center Creek Culinary Water Co.)	
And)	
Duane Sweat)	
)	
PWS ID #UT4900477(UTAH26002))	
)	
Respondents)	
)	ADMINISTRATIVE ORDER
Proceedings under Section 1414(g))	
of the Safe Drinking Water Act,)	
42 U.S.C. § 300g-3(g))	Docket No. SDWA-08-2005-0002
_____)	

The following Findings are made and Order issued under the authority vested in the Administrator of the U.S. Environmental Protection Agency (EPA) by Section 1414(g) of the Safe Drinking Water Act (the Act), 42 U.S.C. § 300g-3(g) and its implementing regulations, as properly delegated to the Supervisors of the Technical and Legal Enforcement Programs of the Office of Enforcement, Compliance and Environmental Justice, EPA Region 8.

FINDINGS

1. Center Creek Culinary Water Co. ("Respondent") is a corporation under the laws of the state of Utah, and therefore a "person" within the meaning of 40 C.F.R. § 141.2. Duane Sweat ("Respondent") is an individual and therefore a "person" within the meaning of 40 C.F.R. § 141.2.
2. Respondents own and/or operate a system, the Center Creek Water System (the "System"), located in Wasatch County, Utah for the provision to the public of piped water for human consumption.
3. The Center Creek Water System regularly serves an average of at least 25 individuals daily at least 60 days out of the year and is therefore a "public water

- system" within the meaning of Section 1401(4) of the Act, 42 U.S.C. § 300f(4), and a "community water system" within the meaning of 40 C.F.R. § 141.2.
4. Respondents own and/or operate a public water system and are therefore "suppliers of water" within the meaning of Section 1401(5) of the Act, 42 U.S.C. § 300f(5) and 40 C.F.R. § 141.2. Respondents are therefore subject to the requirements of Part B of the Act, 42 U.S.C. § 300g, and its implementing regulations, 40 C.F.R. Part 141.
 5. According to a December 17, 2003, information report by the Utah Department of Environmental Quality, Respondents operate a system that is supplied solely by a ground water source consisting of two springs, and serves approximately 200 persons through 70 service connections year-round.
 6. The Utah Department of Environmental Quality has primary enforcement authority for the Safe Drinking Water Act in the State of Utah (the "State"). On May 25, 2004, EPA issued a Notice of Violation to the State requesting that it enforce the violations at the Center Creek Water System within 30 days. The State chose not to commence enforcement for the violations.

FINDINGS OF VIOLATION

I.

1. 40 C.F.R. § 141.21(b) requires public water systems to collect a set of four repeat samples within 24 hours of being notified of a total coliform fecal positive routine sample.
2. Respondents failed to collect a set of four repeat samples after the October 2002

total coliform fecal positive routine sample, in violation of 40 C.F.R. § 141.21(b).

II.

1. 40 C.F.R. § 141.21(b)(5) requires public water systems that collect fewer than five routine samples per month and have one or more total coliform positive samples to collect at least five routine samples during the next month that the system provides water to the public.
2. Respondents failed to collect at least five routine samples in July 2002 after a total coliform positive sample in the preceding month, in violation of 40 C.F.R. § 141.21(b)(5).

III.

1. 40 C.F.R. § 141.21 requires a community public water systems to monitor the water at least once per month to determine compliance with the maximum contaminant level (MCL) for total coliform bacteria as stated in 40 C.F.R. § 141.63.
2. Respondents failed to monitor the System's water for contamination by total coliform bacteria during January 2002, January and May 2003, and February and April 2004, in violation of 40 C.F.R. § 141.21(a).

IV.

1. 40 C.F.R. § 141.23(d) requires public water systems to monitor annually for nitrate to determine compliance with the nitrate MCL as stated in 40 C.F.R. § 141.62.
2. Respondents last monitored for nitrate in September 2004, but failed to monitor the water in 2000 and 2003, in violation of 40 C.F.R. § 141.23(d).

V.

1. 40 C.F.R. § 141.24(f) requires that community and non-transient, non-community water systems monitor the water annually to determine compliance with the MCLs for volatile organic contaminants as stated in 40 C.F.R. § 141.61.
2. Respondents last monitored for volatile organic contaminants in May 2004, but failed to monitor the water for volatile organic contaminants in 1999, 2000, 2001, and 2003 in violation of 40 C.F.R. § 141.24(f).

VI.

1. 40 C.F.R. § 141.26(b)(3) requires community water systems to monitor the water once every 4 years to determine compliance with the MCL for radioactivity, as stated in 40 C.F.R. § 141.15.
2. Respondents last monitored for radioactivity in December 1998 and failed to monitor the water in the four-year compliance period January 1, 1999 through December 31, 2002, in violation of 40 C.F.R. § 141.26(b)(3).

VII.

1. 40 C.F.R. § 141.23(c)(1) requires community and non-transient, non-community water systems utilizing groundwater sources to monitor the water once every 3 years to determine compliance with the MCL for inorganic contaminants as stated in 40 C.F.R. § 141.62.
2. Respondents last monitored for inorganic contaminants in May 2004, but failed to monitor the water in the three- year compliance period January 1, 2001

through December 31, 2003, in violation of 40 C.F.R. § 141.23(c)(1).

IX.

1. 40 C.F.R. § 141.24(h) requires all community and non-transient, non-community water systems to conduct initial sampling of the water consisting of four consecutive, quarterly samples during each three-year compliance period to determine compliance with the MCL for pesticide/herbicide organic contaminants as stated in 40 C.F.R. § 141.61(c).
2. Respondents failed to conduct initial sampling of the water for pesticide/herbicide organic contaminants consisting of four consecutive, quarterly samples during the three-year compliance period January 1, 1999 through December 31, 2001, and has failed to conduct the first, second and third quarter sampling (January through March 2004, April through June 2004, and July through September 2004) for the three-year compliance period January 1, 2002 through December 31, 2004, in violation of 40 C.F.R. § 141.24(h).

X.

1. 40 C.F.R. § 141.201 requires owners and/or operators of public water systems to notify the public of any national primary drinking water regulation ("NPDWR") violations, including violations of the maximum contaminant level ("MCL"), maximum residual disinfection level ("MRDL"), treatment technique ("TT"), monitoring requirements, and testing procedures in 40 C.F.R. Part 141.
2. Respondents have not provided public notice of the noncompliance detailed in the preceding Sections I through IX, in violation of 40 C.F.R. § 141.201.

XI.

1. 40 C.F.R. § 141.21(g)(2) requires public water systems that have failed to comply with a coliform monitoring requirement under 40 C.F.R. § 141.21 to report the violation to the State within ten days after the system discovers the violation.
2. Respondents failed to report to the State instances of noncompliance detailed in Sections I through III above, in violation of 40 C.F.R. § 141.21(g)(2).

XII.

1. 40 C.F.R. § 141.31(b) requires public water systems to report any failure to comply with any National Primary Drinking Water Regulation (40 C.F.R. Part 141) to the State within 48 hours.
2. Respondents failed to report to the State instances of noncompliance detailed in Sections IV through X above, in violation of 40 C.F.R. § 141.31(b).

ORDER

Based on the foregoing Findings, and pursuant to Section 1414(g) of the Act, IT IS ORDERED:

1. Upon the effective date of this Order, Respondents shall comply with all repeat sampling requirements specified in 40 C.F.R. § 141.21(b). This requires that Respondents take no fewer than four repeat samples within 24 hours of being notified of a total coliform positive routine sample. Each repeat sample is to be analyzed for total coliform bacteria.

At least one repeat sample must be taken from each of the following: a) the tap where the original total coliform positive sample was taken, b) from within five service connections upstream of the original total coliform positive tap, and c) from within five service connections downstream from the original total coliform positive tap. The fourth repeat

sample is to be taken anywhere within five service connections upstream or downstream of the original total coliform positive tap. Respondents shall report analytical results to the State and EPA within the first 10 days following the end of the monitoring period, as required by 40 C.F.R. § 141.31(a).

2. Upon the effective date of this Order, Respondents shall comply with all sampling requirements specified in 40 C.F.R. § 141.21(b)(5). If Respondents' water system has one or more total coliform positive samples in a month, Respondents shall collect at least five routine samples during the next month the system provides water to the public. Respondents shall report analytical results to the State and EPA within the first 10 days following the end of the monitoring period, as required by 40 C.F.R. § 141.31(a).
3. Upon the effective date of this Order, Respondents shall comply with the total coliform monitoring requirement of 40 C.F.R. § 141.21(a) to perform monthly bacteriological monitoring. Respondents shall comply with the MCLs as stated in 40 C.F.R. § 141.63. Respondents shall report analytical results to the State and EPA within the first 10 days of the end of the monitoring period, as required by 40 C.F.R. § 141.31(a).
4. Upon the effective date of this Order, Respondents shall comply with the nitrate monitoring requirements as stated in 40 C.F.R. § 141.23(d) to determine compliance with the nitrate MCL appearing at 40 C.F.R. § 141.62(b). Respondents shall report analytical results to the State and EPA within the first 10 days following the month in which sample results are received, as required by 40 C.F.R. § 141.31(a).
5. Upon the effective date of this Order, Respondents shall comply with the volatile organic chemicals monitoring requirements as stated in 40 C.F.R. § 141.24 to

- determine compliance with the MCL for volatile organic contaminants (VOCs) appearing at 40 C.F.R. § 141.61. Respondents shall report analytical results to the State and EPA within the first 10 days following the month which results are received, as required by 40 C.F.R. § 141.31(a).
6. Within 30 days of the date of this Order, and according to the requirement of the regulations thereafter, Respondents shall monitor the water for radioactivity, as required by 40 C.F.R. § 141.26(a)(3). Respondents shall report analytical results to the State and EPA within the first 10 days following the month in which sample results are received, as required by 40 C.F.R. § 141.31(a).
 7. Upon the effective date of this Order, Respondents shall comply with the inorganic chemicals monitoring requirements as stated in 40 C.F.R. § 141.23(c)(1) to determine compliance with the inorganic MCL appearing at 40 C.F.R. § 141.62. Respondents shall report analytical results to the State and EPA within the first 10 days following the month which results are received, as required by 40 C.F.R. § 141.31(a).
 8. No later than March 31, 2005, and for three additional quarters thereafter (April through June 2005, July through September 2005, and October through December 2005), and according to the requirements of the regulations thereafter, Respondents shall conduct quarterly monitoring to comply with the pesticide/herbicide organic chemicals monitoring requirements as stated in 40 C.F.R. § 141.40(h). Respondents shall report analytical results to the State and EPA within the first 10 days following the month which results are received, as

- required by 40 C.F.R. § 141.31(a).
9. No later than 30 days from the effective date of this Order, Respondents shall provide a notice to the public of the violations listed in Sections I - IX in the Findings of Violation of this Order, to return to compliance with 40 C.F.R. §§ 141.201, 141.203, and 141.205. This notice shall be given by (1) mail or other direct delivery to each customer receiving a bill and to other service connections to which water is delivered by the public water system; AND (2) any other method reasonably calculated to reach other persons regularly served by the system, if they would not normally be reached by the notice described above, such as publication in a local newspaper, delivery of multiple copies for distribution by customers that provide their drinking water to others, posting in public places served by the system or on the Internet, or delivery to community organizations. If the public notice is posted, the notice must remain in place for as long as the violation or situation persists, but for no less than seven days. The public water system must repeat the notice every three months as long as the violation or situation persists. Upon the effective date of this Order, Respondents shall comply with the public notification requirements at 40 C.F.R. § 141.201 et seq. following any future NPDWR violation. Respondents shall submit a copy of the public notice to the State and EPA within 10 days of completion of the public notice, as required by 40 C.F.R. § 141.31(d).
10. Upon the effective date of this Order, Respondents shall comply with 40 C.F.R. § 141.21(g)(2) by reporting any failure to comply with coliform monitoring requirements under 40 C.F.R. § 141.21 to the State and EPA within 10 days

after the system discovers the violation.

11. Except where a different reporting period is specified in paragraph 10 above, upon the effective date of this Order, Respondents shall comply with 40 C.F.R. § 141.31(b) by reporting any failure to comply with any National Primary Drinking Water Regulation (40 C.F.R. Part 141) to the State and EPA within 48 hours.
12. Reporting requirements specified in this Order shall be provided by certified mail to:

Melanie Wasco
U. S. EPA Region 8 (8ENF-W)
999 18th Street, Suite 300
Denver, Colorado 80202-2466

and

Ken Bousfield
DEQ, Division of Drinking Water
PO Box 144830
Salt Lake City, UT 84114-4830

GENERAL PROVISIONS

1. This Order does not constitute a waiver, suspension, or modification of the requirements of 40 C.F.R. § 141.1 et seq., or the Safe Drinking Water Act, which

- remain in full force and effect. Issuance of this Order is not an election by EPA to forgo any civil or criminal action otherwise authorized under the Act.
2. Violation of any term of this Order instituted under Section 1414(g)(3)(A) of the Act, 42 U.S.C. § 300g-3(g)(3)(A), may subject the Respondents to an administrative civil penalty of up to \$27,500 under Section 1414(g)(3)(B) of the Act, 42 U.S.C. § 300g-3(g)(3)(B), or a civil penalty of not more than \$32,500 per day of violation assessed by an appropriate U.S. District Court under Section 1414(g)(3)(C) of the Act, 42 U.S.C. § 300g-3(g)(3)(C).
 3. Violation of any requirement of the SDWA or its implementing regulations instituted under Section 1414(b) of the Act, 42 U.S.C. § 300g-3(b), may subject Respondents to a civil penalty of not more than \$32,500 per day of violation assessed by an appropriate U.S. District Court under Section 1414(b) of the Act, 42 U.S.C. § 300g-3(b).

14.

4. The effective date of this Order shall be the date of issuance of this Order.

Issued this 18TH day of November, 2004.

David J. Janik

Michael T. Risner, Director
David J. Janik, Supervisory Attorney
Legal Enforcement Program
Office of Enforcement, Compliance
and Environmental Justice

Melanie L. Pallman for/

Diane L. Sipe, Director
Technical Enforcement Program
Office of Enforcement, Compliance
and Environmental Justice

**IF YOU WOULD LIKE COPIES OF THE ATTACHMENTS, PLEASE CONTACT THE
REGIONAL HEARING CLERK.**

THIS DOCUMENT WAS FILED IN THE RHC'S OFFICE ON NOVEMBER 18, 2004.